

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ATHENA DIAGNOSTICS, INC.,  
And ISIS INNOVATION LIMITED,

Plaintiffs,

v.

MAYO COLLABORATIVE  
SERVICES, LLC, d/b/a MAYO  
MEDICAL LABORATORIES AND  
MAYO CLINIC,

Defendants.

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Civil Action No: 15-cv-40075-IT

ORDER

July 6, 2016

TALWANI, D.J.

Plaintiffs Athena Diagnostics, Inc. and Isis Innovation Limited have filed an unopposed Motion for Leave to File a Third Amended Complaint. [#84]. The proposed Third Amended Complaint seeks to add Max-Planck-Gesellschaft zur Forderung der Wissenschaften e.V. (“Max-Planck”) as a plaintiff, but does not otherwise alter the substantive allegations in the complaint. Plaintiffs and Defendants, Mayo Collaborative Services, LLC and Mayo Clinic, agree that adding Max-Planck as a plaintiff would moot Defendants’ Rule 12(b)(1) Motion to Dismiss the Second Amended Complaint [#79] wherein Defendants argue that Plaintiffs lack standing to bring their suit without the joinder of Max-Planck. Plaintiffs also request, without opposition from Defendants, that the court proceed with its analysis of Defendants’ Rule 12(b)(6) Motion to Dismiss the Second Amended Complaint [#25] without further written briefing and that the court schedule a hearing on that motion.

Accordingly, in the interests of justice:

- (1) Plaintiffs' Motion for Leave to File a Third Amended Complaint [#84] is ALLOWED. Plaintiffs shall promptly file their Third Amended Complaint.
- (2) Defendants' Rule 12(b)(1) Motion to Dismiss the Second Amended Complaint [#79] is DENIED AS MOOT.
- (3) The court will treat Defendants' Rule 12(b)(6) Motion to Dismiss the Second Amended Complaint [#25] as directed at the Third Amended Complaint.
- (4) Plaintiffs' Unopposed Motion for Hearing [#88] is GRANTED. A hearing on Defendants' Rule 12(b)(6) Motion to Dismiss [#25] is scheduled for August 2, 2016 at 10:30 a.m.

So ordered.

Date: July 6, 2016

/s/ Indira Talwani  
United States District Court